

REMARKS

The Final Office Action mailed January 3, 2006, has been received and reviewed. Claims 8-11 and 22-24 are currently pending in the application. Claims 8-11 stand rejected. Applicants propose to amend claims 8-11. Claim 25 has been added herein. Claims 22-24 are cancelled herein. Amendments have been made without prejudice or disclaimer. No new matter has been added. Reconsideration of the application is respectfully requested.

Claim Rejection—35 U.S.C. § 112, second paragraph

Claims 9-11 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

While applicants disagree with the alleged indefiniteness, applicants have proposed to amend 9-11 to remove any grounds for rejection.

More particularly, amended claim 9, as proposed, recites a homologue of SEQ ID NO:1 which is 65% identical at the amino acid level to the amino acid sequence of SEQ ID NO: 2. A homologue, or homology, as defined in paragraph [0035] of the specification, means that the that the respective nucleic acid molecules or encoded proteins are functionally and /or structurally functional. Also, paragraph [0035] teaches that nucleic acids that are homologues are variations of the nucleic acid molecules which represent modifications having the same biological function, in particular, encoding proteins with the same or substantially the same biological function.

Amended claim 10, as proposed, recites, in part, the homologue of claim 9 comprising SEQ ID NO:3. Paragraph [0081] of the specification teaches that SEQ ID NO:3 is the mouse homologue to SEQ ID NO:1 and is 65% identical on the amino acid level to the amino acid sequence of SEQ ID NO:2.

Amended claim 11, as proposed, recites an isolated nucleic acid encoding a protein comprising SEQ ID NO:6 or a fragment thereof comprising amino acids 2-245 of SEQ ID NO:6.

It is respectfully submitted that amended claims 9-11 particularly point out and distinctly claim the subject matter recited thereby.

Therefore, applicants request withdrawal of the rejection of claims 9-11.

Claim Rejection--35 U.S.C. § 112, first paragraph

Claims 8-11 stand rejected under 35 U.S.C. § 112, first paragraph because the specification allegedly fails to enable any person skilled in the art to make and use the invention commensurate in scope of these claims.

Applicants note that the Office acknowledged that the specification is “enabling for the isolated polynucleotide that encodes the polypeptide comprising amino acids 54-140 which is encoded by the polynucleotide of SEQ ID NO:1. (Office Action, pp. 2-3). Furthermore, applicants note that the Office implied that an isolated polynucleotide encoding the polypeptide comprising amino acids 54-140, 54-362, 54-273, 54-236 of SEQ ID NO:2 would be enabled by the instant specification. (*Id.* at p.4).

Accordingly, applicants propose to amend independent claim 8 to recite, in part, an isolated nucleic acid sequence encoding a protein, the protein including amino acids 54-140, 54-362, 54-273, or 54-236 of SEQ ID NO:2.

Regarding amended claims 9 and 10, as proposed, Example 1 includes a description of the isolation of a homologue of SEQ ID NO:1, shown in SEQ ID NO:3, that is 65% identical on the amino acid level to the amino acid sequence of SEQ ID NO:2. The homologue was found using methods known by those of skill in the art including screening the mouse EST database and aligning the homologous sequences. As such, the specification provides detailed working examples, using well known methods, of SEQ ID NO:1 homologues.

Amended claim 11, as proposed, recites, in part, an isolated nucleic acid encoding a protein comprising SEQ ID NO:6 or a fragment thereof comprising amino acids 2-245 of SEQ ID NO:6 (SEQ ID NO:6 is encoded by the nucleic acid of SEQ ID NO:5). The sequence listing provides the amino acid sequence of SEQ ID NO:6, thus allowing a quick evaluation of whether the encoded protein comprises SEQ ID NO:6 or a fragment including amino acids 2-245. Also, Examples 1, 3 and 9 provide instructions for evaluating the interaction of the encoded protein with receptors of the Tumor Necrosis Factor (“TNF”) superfamily including the cytoplasmic domain of CD40 as determined by a yeast two-hybrid interaction assay or a co-immunoprecipitation assay.

Therefore, it is respectfully submitted that the instant specification includes working examples using predictable methods that are routinely employed by those of skill in the art. As

such, the instant specification would allow one of skill in the art, without undue experimentation, to make and use the invention commensurate in scope of claims 8-11.

For the foregoing reasons, applicants respectfully request withdrawal of the § 112, first paragraph rejections of claims 8-11.

Entry of Amendments

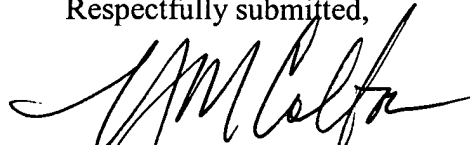
It is respectfully requested that the proposed claim amendments be entered. The proposed amendments merely place the claims in better condition for allowance or appeal and do not introduce new matter into the application, nor would they require any additional search. Moreover, by incorporating the elements of dependent claims 22-24 into independent claim 8, the number of issues that remain for purposes of appeal is reduced. Also, support for claim 25 may be found, *inter alia*, in paragraph [0013] where the specification discloses specific amino acids of SEQ ID NO:2 as well as in the originally filed claims 22-24.

In the event that a decision is made not to enter the proposed claim amendments, entry thereof upon the filing of a Notice of Appeal in the above-referenced application is respectfully requested.

CONCLUSION

In view of the foregoing proposed amendments and remarks, applicants submit that the claims define patentable subject matter and a notice of allowance is requested. Should questions exist after consideration of the foregoing, the Office is kindly requested to contact the applicants' attorney at the address or telephone number given herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Yury M. Colton', written in a cursive style.

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